

REMARKS/ARGUMENTS

I. Restriction

Applicants elect with traverse to prosecute the claims of Group IV (claims 28-33 and 40-49). According to the MPEP, where claims can be examined together without undue burden, the Examiner must examine the claims on the merits even though they are directed to independent and distinct inventions. *See*, the MPEP at 803.01. In establishing that an “undue burden” would exist for co-examination of claims, the Examiner must show that examination of the claims would involve substantially different prior art searches, making the co-examination burdensome. Applicants respectfully submit that examination of the claims in Groups I-IV would not create an undue burden and respectfully request withdrawal of the restriction requirement in this case.

Specifically, Applicants request that the Examiner reconsider including claims 34-39 in restriction Group IV. Claims 34-39 all depend from claims presently in Group IV. For example, SEQ ID NOs: 15 and 74, as recited in claims 34-39, each *comprise* SEQ ID NO:9 as recited in independent claim 34. Thus, if no art is identified for the claims in Group IV, none will be found for claims 34-39. Therefore, there is no undue burden for the Examiner to examine claims 34-39 along with the other claims of Group IV.

Moreover, the Examiner did not include claim 50 in any restriction group. Applicants request that claim 50 be considered in Group IV or that the Examiner send a new office action listing claim 50 in a restriction group.

II. Species Election

Applicants elect species 6-carboxyfluorescein as the fluorescent moiety, Cy5 as the quencher, and *Thermus aquaticus* DNA polymerase as the DNA polymerase. Claims 28-45, and 47-50 read on the elected species.

Applicants request that upon allowance of the claims, the Examiner consider rejoinder of withdrawn species if they are embraced by the allowed generic claims pursuant to MPEP § 809.03(c)(B).

Appl. No. 10/815,480
Amdt. dated March 7, 2006
Reply to Office Action of February 7, 2006

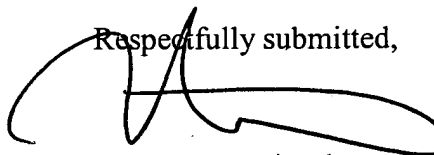
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CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 415-576-0200.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'Matthew E. Hinsch', written over a horizontal line.

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